



Application No.: 09/977,512

Docket No.: 16159/092001; P5940

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

David S. Allison

Conf. No.: 3988

Application No.: 09/977,512

Art Unit: 2193

Filed: October 12, 2001

Examiner: T. A. Vu

For: METHOD AND APPARATUS FOR RUNTIME  
BINDING OF OBJECT MEMBERS

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Claims 1-4 and 6-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,738,968 ("Bosworth") in view of the article entitled "An Efficient Implementation of SELF, a Dynamic-Typed Object-Oriented Language Based on Prototypes" (hereafter "Chambers") and further in view of Stein\_cshl (hereafter "Stein"). The Applicant respectfully asserts that the Examiner has failed to meet the *prima facie* burden to maintain a rejection under 35 U.S.C. §103(a). In particular, contrary to the requirements set out in M.P.E.P. 760.02(j), the Examiner has failed to show that all the limitations are taught by the aforementioned combination of prior references.

Turning to the claims, the Examiner has failed to indicate where in the aforementioned references there is a teaching of a program written in a *dynamically typed language* which includes the functionality recited in the claims. Rather, the Examiner is relying on a generic unrelated reference to a dynamically linked object-oriented programming language to satisfy this limitation (*see* Office Action mailed May 12, 2005, p. 2). Clearly, a dynamic linking in an object-oriented language is not equivalent to *dynamically typing*.


Further, the Examiner has failed to indicate where in the aforementioned references there

is a teaching of (i) determining whether an object in the program (*i.e.*, the dynamically typed program) is *accessible* based on an access control level associated with the object; and (ii) binding, at run-time, the object to its reference *if the object is accessible*. In particular, the Examiner has interpreted limitation (i) to merely correspond to “determining whether said object member is used at runtime” (*see* Office Action mailed May 12, 2005, p. 3) and limitation (ii) to merely correspond to “binding at runtime said object to its reference if said object member is used” (*see* Office Action mailed May 12, 2005, p. 3). The Examiner’s improper recitation of the aforementioned limitations effectively removes explicitly stated limitations within the claims.

In view of the above, the Applicant believes that the Examiner has failed to make a satisfy the requirements setout in M.P.E.P 706.02(j) to establish a *prima facie* rejection under 35 U.S.C. §103. Accordingly, a favorable decision from the panel is respectfully requested. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 16159/092001; P5940).

Dated: September 12, 2005

Respectfully submitted,

By   
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Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

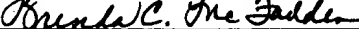
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 16159/092001; P5940	
	Application Number 09/977,512-Conf. #3988	Filed October 12, 2001	
	First Named Inventor David S. Allison		
	Art Unit 2193	Examiner T. A. Vu	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>46,479</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p> Signature Robert P. Lord Typed or printed name (713) 228-8600 Telephone number September 12, 2005 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EVF707249658, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: September 12, 2005

Signature:  (Brenda C. McFadden)